

6.0 THIRD PARTY AGREEMENTS

The Contractor shall be responsible for obtaining all third party approvals required to complete the Work, except as otherwise specified in the Contract Documents. Third party coordination and approvals will be required from (but not limited to) the following agencies: Local Agencies, Public Utility Owners and Private Utility Owners. Utility Company requirements are addressed in the Utility Section. Coordination and approval requirements of Local Agencies and Railroad are addressed in this Section.

6.1 Local Agency

The Contractor shall meet the requirements of the CDOT / City of Broomfield Intergovernmental Agreement (IGA) as is provided in Book 3.

6.2 Railroad

The Project includes Work on the BNSF Railway Company (Railroad) ROW and/or properties on or adjacent to the tracks, wire lines and other facilities of the Railroad. This Section provides requirements applicable to Work performed upon or adjacent to the Railroad ROW. Anticipated Work on or adjacent to Railroad ROW is limited to construction of the Airport Creek Basin drainage outfall. The Contractor shall abide by and comply with the requirements of the Railroad as well as those requirements specified herein.

Before commencing any Work on Railroad properties, the Contractor shall enter into agreement with the Railroad in the form of attached Example “Exhibit C” and “Exhibit C-1” or latest versions thereof provided by the Railroad and insure that all access permits covering Work have been obtained. The Contractor shall be responsible for all costs associated with all permits or agreements as reimbursement for clerical, administrative, and handling expenses in connection with the processing of these agreements.

The Contractor shall provide written notification to the Railroad at least thirty (30) calendar days in advance of the date on which the Contractor expects to begin Work on Railroad Properties. The Contractor shall also provide written notice to the Railroad that the Work has been completed within ten (10) days following completion and acceptance of such Work. All notices and correspondence with the Railroad shall contain the Project number and location. Copies of such agreements, notices, and correspondence shall also be submitted to CDOT.

The Contractor shall comply with all rules and regulations prescribed by the Railroad, as to the proper manner of protecting the tracks (and the traffic moving thereon), telephone, telegraph and signal wires and other property of the Railroad or their tenants at and in the vicinity of the Project during the time such Work is being performed. Compliance with the Railroad rules and regulations shall include execution of agreements required by the Railroad.

6.2.1 Applicable Standards

The design and construction of the Railroad Work for the Project shall be in accordance with all the requirements of the Contract Documents including the applicable standards in Book 3.

The Contractor shall meet the requirements included in the Railroad agreements provided in Book 3 for Work to be performed by the Contractor within Railroad Right-of-Way.

6.2.2 Administrative Requirements

The Contractor shall meet with the Railroad and CDOT within 30 days after NTP1 to review all Railroad points of concern and other items which may affect the schedule. The Contractor shall identify critical activities and sequences, as they affect Railroad operations, and plan to effectively mitigate Railroad impacts.

All Railroad facilities requiring modifications will be designed and constructed by the Railroad.

All construction Work within the Railroad ROW and/or properties will be performed during daylight hours unless authorized otherwise by the Railroad.

If required, temporary crossings at grade of the Railroad's tracks or roadways or unloading pits on the Railroad's ROW will only be constructed by the Railroad. The Contractor shall only enter Railroad property through temporary easements or routes approved by the Railroad. The Contractor shall maintain any such crossings so established, in first-class condition at all times, shall keep flange-ways free of ice, snow, dirt, rock and debris, and shall install, operate, maintain and remove in a manner satisfactory to the Railroad, suitable barricades adequate to prevent unauthorized vehicles or equipment from using such crossings or roadways. All costs and expenses for installation, maintenance and operation of any such crossings or roadways and barricades, whether the Work performed by the Railroad or by the Contractor, shall be borne and paid by the Contractor, notwithstanding anything elsewhere contained herein. The Contractor shall not at any time cross the Railroad's tracks with vehicles or equipment of any kind or character, except at existing public crossings or at crossings established as provided for in this paragraph.

The Contractor shall obtain Railroad agreement in writing, in advance, on methods and procedures covering all Work on the Railroad's property. Upon completion of the Work, the Contractor shall remove from the premises of the Railroad ROW all equipment, surplus material and debris, leaving such premises in a neat condition satisfactory to the Railroad.

Work upon the Railroad's property not contemplated by project plans, specifications and requirements of the Contract Documents shall be performed only by or with the prior written consent of the Railroad.

If the Contractor employed upon the Railroad's property performs the Work thereon contrary to the plans, specifications and requirement of the Contract Documents, or if the Contractor performs the Work on the Railroad's property in a manner deemed hazardous by the Railroad (to its property and facilities or the safe and expeditious movement of its traffic), the Railroad shall have the right to stop the Work on the Railroad's property until the acts or omissions of the Contractor have been fully rectified to the satisfaction of the Manager of Track Maintenance for the Railroad.

The Contractor shall be responsible to the Railroad and its tenants for all damages for delays which may be sustained by the Railroad, or its tenants, or their employees, or freight in their care caused by any interference which could have been avoided by proper handling of the project Work.

All of the limitations and obligations imposed upon the Contractor by this Section shall apply with equal force and effect to any Subcontractor performing any project Work for the Contractor upon the Railroad's ROW. The Contractor shall be primarily liable and responsible to the Railroad for all acts or omissions of any Subcontractor employed upon the Railroad's ROW.

Nothing herein contained shall be construed to preclude the Railroad from proceeding against the Contractor and Subcontractors individually or collectively.

6.2.2.1 Railroad Insurance

The Contractor shall comply with the provisions for Railroad insurance as specified in the executed agreement and in the terms and conditions of the Contract.

6.2.2.2 Flagging and Inspection

Any Work within 25 feet of the centerline of the nearest track rail will require a Railroad flagman. The Contractor shall notify the Railroad per the executed agreement to arrange for required flagging services. Once the Contractor requests a flagger for Work on Railroad Right-of-Way, the flagger will remain for the duration of the Work.

During the period of construction, all flagging and protective services shall be performed strictly in accordance with directives and instructions issued by the Railroad. The Contractor shall confer with the Railroad for the times, locations and manner of such protective measures. The Contractor shall be responsible to appropriately notify the Railroad regarding flagging start and end dates. The Contractor shall include the Railroad flaggers in all its regularly scheduled safety meetings as required in the Project Management Section. If the Contractor does not comply with the above requirements, the Railroad will post a flagger or flaggers, as it deems necessary, for the duration of the Project. The Contractor shall not be entitled to any additional compensation if this occurs.

6.2.2.3 Cost for Flagging and Inspection

The Contractor shall include in its GMP Allocation Form (Form J) the amount that will be required for Railroad flagging and inspection, Railroad maintenance of temporary crossings, Railroad permit and coordination fees, and other Railroad related costs. The Railroad will bill the Contractor for Railroad flagging and inspection, and other Railroad costs incurred on the Project. The Railroad's estimated cost of flagging that Railroad deems necessary is Seven Hundred Dollars (\$700.00) per flagger per day, based on a ten hour day.

The rates of pay of the Railroad employees customarily called upon to act for the protection of the Railroad are the Railroad rates in effect at the time of the Work for the various classes of labor. Compensation, property damage and public liability insurance, vacation and holiday time, Railroad retirement and unemployment taxes, health and welfare, and supervision charges will be added to the above rates. The Railroad will, upon request, furnish prospective bidders with an estimate of cost of the flagging protection which will be required, but such estimate shall be understood to be approximate only and no guaranty is made that the total cost of such flagging will not be in excess of the estimated amount.

6.2.2.4 Authority of Railroad Flaggers and Inspectors

The Railroad flaggers and inspectors shall have the right, through CDOT, to direct the Contractor to stop Work on or over Railroad property, if the Railroad in its sole discretion, determines that the Work being performed is hazardous to Railroad property and, or operations. The Railroad will give immediate notice to CDOT of any Work stoppage. The Contractor,

Working with CDOT, shall be responsible for resolving to the Railroad's satisfaction the problems resulting in the Work stoppage. The Contractor shall accommodate any and all requests made by the Railroad, which serve the purpose of avoiding hazards to Railroad property and, or operations. Neither the Railroad nor CDOT will have any liability to the Contractor for costs or delays associated with such Work stoppage or requirements associated with avoidance or hazardous situations.

6.2.3 Utility Crossings

The Railroad is not responsible for Utilities on Railroad ROW. The Contractor shall locate all Utilities on Railroad ROW within the immediate vicinity of the Work. The Contractor shall certify to the Railroad that all the Utilities on Railroad ROW and within the immediate vicinity of the Work have been identified and properly located.

6.2.4 Design Reviews

The Railroad will review design plans. Railroad review is separate from CDOT oversight. The Contractor shall coordinate the required Railroad design reviews with the Railroad. All plans submitted to the Railroad for review and approval and shall be in English units. The Railroad review and approval process is estimated to take 30-45 days for each review.

6.2.5 Construction Requirements

The Contractor shall coordinate with the Railroad prior to beginning of any construction on or adjacent to the Railroad ROW. Working windows for demolition and construction shall be coordinated with the Railroad and Railroad flaggers. The Contractor shall keep a log of actual time that the Railroad personnel are flagging. Copies of the log shall be submitted to CDOT with the Contractors invoice as required in the Project Management Section.

Within 5 Days after NTP1, the Contractor shall notify the Railroad Manager of Public Projects:

Mr. Andy Amparan
Manager Public Projects
The Burlington Northern and Santa Fe Railway Company
4515 Kansas Avenue
Kansas City, KS 66106
Phone: 913-551-4964
FAX: 913-551-4077

And, Railroad General Road Manager:

Mr. Mark Carpenter
General Road Manager
The Burlington Northern and Santa Fe Railway Company
3700 Globeville Road
Denver, CO 80216
Phone: (303) 480-6393
FAX: (303) 480-7463

The Contractor shall schedule and hold a Railroad pre-construction conference. The meeting shall be held as soon as practicable after the initial contact with the Railroad.

It is expected that the Railroad will cooperate with the Contractor so that the Work may be handled in an efficient manner, but the Contractor shall have no claim against the Railroad for damages or extra compensation in the event the Contractor's Work is held up by Work of the Railroad forces.

The Contractor shall cooperate with the Railroad where Work is within the limits of the Railroad property, in order to expedite the Work and to avoid interference with the operation of Railroad equipment.

The Contractor shall comply with the rules and regulations of the Railroad or the instructions of its representatives in relation to the proper manner of protecting the tracks and property of the Railroad and the traffic moving on such tracks, as well as the wires, signals and other property of the Railroad, its tenants or licensees, at and in the vicinity of the Work during the period of construction.

The Contractor shall perform its Work in such manner and at such times as shall not to endanger or interfere with the safe operation of the tracks and property of the Railroad and the traffic moving on such tracks, as well as wires, signals and other property of the Railroad, its tenants or licensees, at or in the vicinity of the Work. The Contractor shall not pile or store any materials, tools, or park any equipment, when not in use, closer to the center of nearest railroad track than permitted by the following clearances:

1. 25 feet, 0 inches horizontally from nearest rail.
2. 23 feet, 3 ½ inches vertically above top of rail.

Falsework, forms, bracing or other construction supports, driven piles, etc. shall be no closer to the center of the nearest railroad track than permitted by the following temporary construction clearances:

1. 15 feet, 0 inches horizontally from nearest rail.
2. 21 feet, 6 inches vertically above top of rail.

Temporary fence (orange) shall be installed to identify temporary easements and flagging areas.

Any proposed variance of the above clearances shall be submitted by the Contractor to the Railroad, the Public Utilities Commission if applicable and to CDOT, and shall not be undertaken until approved by the Railroad, and until CDOT has obtained any necessary authorization from any governmental body or bodies having jurisdiction. No extra compensation will be allowed in the event the Contractor's Work is delayed pending Railroad approval and Governmental Approval.

No private crossing at grade over tracks of the Railroad for the purpose of hauling earth, rock, paving or other materials will be permitted unless approved by the Railroad. If the Contractor desires to move its equipment or material across the Railroad's tracks, the Contractor shall obtain permission from the Railroad, and the Contractor shall execute a private crossing agreement. The crossing installation for the use of the Contractor, together with any protective devices, if required, shall be at the expense of the Contractor. The Contractor shall furnish its own employees as flagmen to control movements of vehicles on the private roadway and shall

take all measures necessary to prevent the use of such roadway by unauthorized persons and vehicles.

The Contractor shall provide positive drainage along the Railroad at all times during and at the end of construction in the area.

The Contractor shall give the Railroad at least thirty (30) Days written notice in advance of any Work to be done upon or adjacent to Railroad property. The Contractor shall notify the Railroad of the date said Work is completed, and also the date the Work is Accepted by CDOT. Upon completion of the Work to be performed on Railroad property under the Contract, the Contractor shall promptly remove from Railroad property all tools, equipment and materials placed thereon by the Contractor or the Contractors agents. The Contractor shall restore said property to the same state and condition as when the Contractor entered thereon and shall leave said property in a clean and presentable condition satisfactory to the Railroad.

Work shall be performed in accordance with plans and specifications approved by the Railroad and in such manner and at such times as shall not endanger or interfere with the safe operation of the tracks and other facilities. The requirements of the Railroad and the instructions of its representatives shall be complied with relating to the proper manner of protecting the tracks, pipelines, wire lines, signals and all other property at said location, the traffic moving on such tracks and the removal of tools, equipment and materials.

The Contractor shall keep Railroad property free and clear of all levies, liens and encumbrances of any nature whatsoever, and shall promptly remove any lien against Railroad property arising from performance of Work hereunder by the Contractor, or any Subcontractor, and if not removed within 20 days, the Railroad may act to remove same and all the costs shall be paid by the Contractor.

Protection of Railroad facilities -- Railroad representatives, conductors, flagmen or watchmen, will be provided by the Railroad to protect its facilities, property and movements of its trains, or engines, when in the opinion of the Railroad's representative that are necessary due to the Contractors operations while Working on or adjacent to Railroad property or its tracks.

The cost of all personnel deemed necessary by the Railroad and provided by the Railroad for the protection of the Railroad facilities and trains during the period of constructing the Project, and the cost of installing protective devices in the case of impaired clearance, as above specified, shall be borne by the Contractor.

At the request of the Railroad, the Contractor shall remove from the Railroad premises any employee of said Contractor or any Subcontractor who fails to conform to the instructions of the Railroad's representative. All Work on the Railroad premises shall be suspended until such request of the Railroad is met. The Contractor shall indemnify the Railroad against any claim arising from the removal of any such employee from the Railroad premises.

6.3 Deliverables

At a minimum, the Contractor shall submit the following for review, Approval and/or Acceptance:

Deliverable	Acceptance or Approval	Schedule
Contractor / Railroad agreement	Executed by the Railroad	Prior to commencing Work on Railroad property
Written notice of intent to commence Work on Railroad ROW	Railroad	Per the executed agreement with the Railroad
Written notice of intent to stop Work on Railroad ROW	Railroad	Per the executed agreement with the Railroad
Design plans	Review and approval by the Railroad	Prior to beginning any construction